REMARKS

The Examiner is thanked for the thorough examination of the present application. The Office Action mailed July 13, 2007 rejected claims 1-8. This is a full and timely response to that outstanding Office Action. Upon entry of the amendments in this response, claims 1-8 and 15-26 are pending. More specifically, claims 1 and 4 are amended, claims 15-26 are added, and no new matter is added to the present application by these amendments. These amendments are specifically described hereinafter.

I. Present Status of Patent Application

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 1-2 and 5 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Uemura* (U.S. Patent No. 6,430,161). Claims 6-8 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Uemura* (U.S. Patent No. 6,430,161). Claims 3 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Uemura* (U.S. Patent No. 6,430,161) in view of *Sherman* (U.S. Patent No. 6,434,513). Claim 4 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Uemura* (U.S. Patent No. 6,430,161) in view of *Beach* (U.S. Patent No. 7,126,945). These rejections are respectfully traversed to the extent not rendered moot by amendment.

II. Rejections Under 35 U.S.C. §112

The Office Action rejects claim 4 under 35 U.S.C. §112, Second Paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In an effort to address the Examiner's concerns, claim 4 has been amended to recite "signaling is performed during the power save mode." In view of this amendment, Applicant respectfully submits that the rejection of claim 4 should be withdrawn.

III. Rejections Under 35 U.S.C. §102(e)

A. Claims 1-2 and 5

The Office Action rejects claims 1-2 and 5 under 35 U.S.C. §102(e) as allegedly being anticipated by *Uemura* (U.S. Patent No. 6,430,161). For at least the reasons set forth below, Applicant respectfully traverses the rejection to the extent not rendered moot by amendment.

Independent claim 1, as amended, recites:

1. A method for reducing CPU loading in a software receiver for a packet based communications system comprising the steps of:
   measuring the current CPU load;
   determining whether the CPU load has exceeded a predetermined threshold;
   responsive to determining that the CPU has exceeded a predetermined threshold, entering a power save mode, thereby signaling the communications system transmitter to inhibit packet transmission;
   monitoring the CPU load while the transmitter is inhibited;
   determining that the CPU load has fallen below a predetermined threshold; and

> signaling the communications system transmitter to begin transmitting packets once the CPU load has fallen below the predetermined threshold.

(Emphasis added).

Applicant respectfully submits that claim 1 is patentably distinct from the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that the amendments to claim 1 have rendered the rejection moot. Applicant respectfully submits that independent claim 1, as amended, is allowable for at least the reason that *Uemura* does not disclose, teach, or suggest at least the step of: **responsive to determining that the CPU has exceeded a predetermined threshold, entering a power save mode, thereby signaling the communications system transmitter to inhibit packet transmission**. Even if, assuming for the sake of argument, *Uemura* discloses reducing the amount of data to be transmitted, *Uemura* fails to disclose responsive to determining that the CPU has exceeded a predetermined threshold, entering a power save mode, thereby signaling the communications system transmitter to inhibit packet transmission. Therefore, *Uemura* does not anticipate independent claim 1, and the rejection should be withdrawn for at least that reason.

For at least the reason that independent claim 1, as amended, is allowable over the cited references of record, dependent claims 2 and 5 (which depend from

independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2 and 5 contain all the features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 2 and 5 are patentable over *Uemura*, the rejection to claims 2 and 5 should be withdrawn and the claims allowed.

IV. Rejections Under 35 U.S.C. §103(a)

A. Claims 3, 4 and 6-8

The Office Action rejects claims 6-8 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Uemura* (U.S. Patent No. 6,430,161). The Office Action rejects claim 3 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Uemura* (U.S. Patent No. 6,430,161) in view of *Sherman* (U.S. Patent No. 6,434,513). The Office Action rejects claim 4 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Uemura* (U.S. Patent No. 6,430,161) in view of *Beach* (U.S. Patent No. 7,126,945). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

For at least the reason that independent claim 1 is allowable over the cited references of record, dependent claims 3, 4, and 6-8 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 3, 4, and 6-8 contain all the features of independent claim 1. Therefore, the rejection to claims 3, 4, and 6-8 should be withdrawn and the claims allowed.

Regarding claim 3, even if, assuming for the sake of argument, *Sherman* discloses determining a load on a web application, which could be due to many factors, (system resources such as memory, bottlenecks, transmission line bottlenecks, etc.), which affect the response time of a webpage, *Sherman* fails to disclose where the CPU load measurement is based on the response time of the host CPU to a request for interrupt.

Additionally, with regard to the rejection of claim 3, *Sherman* does not make up for the deficiencies of *Uemura* noted above. Further, with regard to claim 4, *Beach* does not make up for the deficiencies of *Uemura* noted above. Therefore, claims 3 and 4 are considered patentable over any combination of these documents for at least the reason that claims 3 and 4 incorporate allowable features of claim 1 as set forth above.

V. Miscellaneous Issues

The Attorney Docket number is erroneously listed as 50337-1600. Applicant respectfully requests that the Attorney Docket No. be changed to 50337-1610.

Newly added claims 15-26 are allowable over the references of record for at least the reason that the references of record do not disclose each element of claims 15-26.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-8 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

It is believed that no extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account No. 50-0835.

Respectfully submitted,

/BAB/
Benjamin A. Balser, Reg. No. 58,169

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500